

***NATIONAL WEATHER SERVICE MANUAL 10-2001***

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***Operations and Services  
Forensic Services NWSPD 10-20***

***DEFINITIONS***

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***SUMMARY OF REVISIONS:*** This directive supersedes Weather Service Operations Manual D-90, “Weather Support for Accident Investigations and Litigation,” issuances 97-2 and 97-8, dated February 19, and August 15, 1997, respectively.

Signed by Gregory A. Mandt June 25, 2002

Gregory A. Mandt

Date

Director, Office of Climate,  
Water, and Weather Services

## Definitions

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#### 1. Definitions Related to Records Retention.

***Official National Weather Service (NWS) Record*** - the term applicable to all permanent-type records archived at the National Climatic Data Center (NCDC), Federal Records Centers, or National Archives. It is also applicable to all NWS service products designated for retention at the NCDC or NWS offices.

It is NOT applicable to:

a. automated observing systems information not routinely transmitted on the Advanced Weather Interactive Processing System (AWIPS) or a Federal Aviation Administration (FAA) communications system, except in circumstances as discussed in NWS Instruction 10-2004, Section 3.1.

b. copies of Weather Surveillance Radar-1988 Doppler (WSR-88D) archive tapes and disks/cartridges or hard copy images obtained from tapes and disks not bearing certification by an appropriate NCDC or NWS official.

c. copies of weather data and products obtained from Internet Web sites or any other unsecured data base.

***NWS Service Products*** - The three basic groupings of service products are:

a. Observations: observations reports originated by the NWS, the FAA, or Department of Defense facilities and transmitted through the NWS Telecommunications Gateway (NWSTG), NOAAPORT, or equivalent. These reports may include, but are not limited to, surface observations (including Automated Surface Observing System and Automated Weather Observing System reports), pilot reports, upper air reports, marine reports, and automated buoy observations.

b. Forecasts: all official routine and non-routine disseminated products related to, or derived from, NWS warning and forecast programs (alphanumeric and graphic format), regardless of dissemination method.

c. Graphics: all routine and non-routine environmental data and analysis graphics, such as surface analysis, standard layer upper air analyses, weather depiction, radar summary, etc., and all routine and non-routine graphics represented as official NWS forecasts, including various aviation prognostic graphics (e.g., Low Level and High Level Significant Weather Prognosis) produced by the National Centers for Environmental Prediction and other NWS facilities (e.g., Alaska Aviation Weather Unit).

2. Definitions Related to Accident Notification and Investigation.

***Aircraft Mishap*** - an inclusive term to denote the occurrence of an aircraft accident, aircraft incident, or in-flight emergency having the potential for adversely affecting the safety of the aircraft.

***Aircraft Accident*** - an occurrence associated with the operation of an aircraft taking place between the time any person boards the aircraft with the intention of flight until such time as all persons have disembarked, in which any person suffers death or serious injury as a result of being in or upon the aircraft or by direct contact with the aircraft or anything attached thereto, or the aircraft receives substantial damage.

***Fatal Injury*** - an injury resulting in death as a direct result of an accident.

***Serious Injury*** - an injury requiring hospitalization for more than 48 hours, commencing within 7 days from the date the injury was received.

***Substantial Damage*** - damage or structural failure adversely affecting the structural strength, performance, or flight characteristics of the aircraft and normally requiring major repair or replacement of the affected component.

***Major Aircraft Accident*** - an aircraft accident involving either:

- a. one or more fatalities,
- b. air carrier flights, or
- c. widely known public figures.

***Aircraft Incident*** - an aircraft mishap not meeting the criteria specified above for an aircraft accident or major aircraft accident. Incidents include, but are not limited to, lightning encounters, bird strikes, hail and turbulence encounters, and sliding off runways.

***Major Marine Accident*** - a mishap to a vessel involving either:

- a. one or more fatalities,
- b. loss of vessel of 100 or more gross tons,
- c. property damage (vessel and/or cargo) estimated at \$500K or more,
- d. widespread marine pollution (oil or hazardous substances), or
- e. widely known public figures.

***Weather Factor Accident*** - an accident where weather phenomena are a significant factor.

***Surface Accident*** - a known or suspected weather-related accident involving one or more land-based modes of transportation (e.g., automobile, truck, bus, train).

***Public Hearing*** - a hearing held as part of the investigation conducted by the National Transportation Safety Board (NTSB) for the purpose of creating a public record of the facts, conditions, and circumstances relating to an accident. The Board will convene a Public Hearing whenever it deems it necessary in the public interest. Public Hearings involving marine accidents may be conducted by the NTSB, the U.S. Coast Guard, or both.

***Safety Enforcement Hearing*** - an administrative adversary proceeding conducted by the FAA before a Hearing Officer assigned by the NTSB to hear evidence concerning charges brought against a pilot or air carrier. The findings in these proceedings can affect litigation.

3. Definitions Related to Litigation.

***Federal Tort Claims Act (FTCA)*** - enacted by Congress in 1946. The FTCA establishes criteria with respect to Government liability for claims of damage, death, and/or injury initiated by civil parties.

***Notice of Claims for Damage, Injury, or Death*** - an initial step in the litigation process established by the FTCA. The notice includes allegations and the basis of allegations against an agency or agencies of the Government, i.e., National Oceanic and Atmospheric Administration (NOAA), NWS, FAA. It also presents monetary claims for death, personal injury, and/or loss of property caused by alleged negligence or wrongful acts or omissions of Federal employees acting within the scope of their employment. The General Litigation Division, Department of Commerce General Counsel's Office handles claims addressed to the NOAA/NWS.

***Discovery*** - the term encompassing various actions and procedures initiated or conducted by opposing civil and Government attorneys in preparation for trial. The three primary forms of Discovery include the Interrogatory, the Request for Production of Documents, and the Deposition.

***Interrogatory*** - a request for written information addressed by plaintiff's attorney to the Government attorney or vice versa. It is utilized to obtain basic or general information required to build a case against the opposing party. In cases where the NWS has been identified as a designated party within a Claim for Damage, Injury, or Death, the Interrogatory addressed to the Government may include requests for written information regarding operational and dissemination procedures, general staffing policies, identification of NWS personnel, and/or tangible products surrounding the case.

***Request for Production of Documents*** - a request for tangible records. Similar to the Interrogatory, a Request for Production are initiated by either private or Government attorneys. Documents commonly produced in response to Production Requests include observational and forecast records, analysis and forecast charts, NWS directives, manuals, Station Duty Manuals, and technical or reference materials. Training records, and inter- or intra-agency memoranda and letters also may be produced subject to the approval of NOAA's Office of General Counsel. Personnel records are covered under the Privacy Act and can only be produced with employee consent and/or a Court Order.

***Deposition*** - sworn oral testimony of a witness taken before any person having the power to administer oaths.

***Subpoena*** - a court-ordered process causing a witness to appear and give testimony and/or produce documents.

***Witness*** - an employee who, at the request or with the approval of NWS Headquarters, or in response to a subpoena or pursuant to proper notice, and with the approval of the NOAA's Office of General Counsel, appears before any Federal or state court, or any public body or at a deposition, to testify or produce evidence—documentary or otherwise.

***Plaintiff*** - the party initiating suit.

***Matter of Public Record*** - any map, chart, tape, film, log, form, forecast, warning, watch, or advisory designated as an official NWS record.